

**RULES
OF
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF WORKERS' COMPENSATION**

**CHAPTER 0800-2-15
UNINSURED EMPLOYERS FUND**

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0800-2-15-.01 DEFINITIONS. The following definitions are for the purposes of this chapter only:

- (1) "Administrator" means the Administrator of the Workers' Compensation Division of the Tennessee Department of Labor and Workforce Development.
- (2) "Commissioner" means the Commissioner of the Tennessee Department of Labor and Workforce Development or the Commissioner's designee.
- (3) "Department" means the Tennessee Department of Labor and Workforce Development.
- (4) "Designee" means any person whom the Commissioner indicates, selects, appoints, nominates, or sets apart for a purpose or duty.
- (5) "Employer" shall have the same meaning as set forth in TCA Section 50-6-102 and additionally shall include an individual, firm, business, corporation, partnership, limited liability company, association, or any other entity which an employee of the Department reasonably believes may be an Employer as defined in TCA Section 50-6-102.
- (6) "Fund" means the Uninsured Employers Fund.
- (7) "Inspection" means any inspection of an Employer's factory, plant, establishment, construction site or other area, workplace, or environment where work is performed by at least one person who is or may be an employee of an employer.
- (8) "Investigation" means reasonable efforts made by a Department employee to find out relevant information or information reasonably calculated to lead to the discovery of relevant information necessary to determine whether an employer is subject to the Workers' Compensation Law, to determine whether an employer has secured payment of compensation pursuant to the Workers' Compensation Law, or to determine the amount of any monetary penalty which may be assessed against an employer for failure to secure payment of compensation pursuant to the Workers' Compensation Law. The reasonable efforts used may include the use of a computer, sending and receiving electronic mail, making and reviewing records, both computer -generated and on paper, including reviewing other records of the Department, from other governmental entities and agencies, or from any other lawful source, making and receiving telephone calls, sending and receiving facsimile transmissions, writing and receiving correspondence, completing written reports, filling out and receiving forms, serving subpoenas and reviewing items identified by subpoenas, and making inspections, re-inspections, or follow-up inspections.

(Rule 0800-2-15-.01, continued)

- (9) “Investigator” or “Workers’ Compensation Investigator” means a person authorized by the Commissioner to conduct investigations.
- (10) “Records of the Department” or “Department Records” means any data, including electronic, computer-generated, telephonic, or on paper, used in the business of the Department and obtained by any employee of the Department:
 - (a) from within the Department;
 - (b) from other governmental entities or agencies;
 - (c) through an investigation; or
 - (d) from any other lawful source.
- (11) “Secure payment of compensation” shall mean complete compliance with all coverage requirements of Tenn. Code Ann. § 50-6-405 at all times required by the Workers’ Compensation Law.
- (12) “Worker” means an employee or injured worker.
- (13) “Workers’ Compensation Law” means the Workers’ Compensation Act as currently enacted by the Tennessee General Assembly.

Authority: T.C.A. §§4-5-202, 50-6-102, 50-6-118, 50-6-233, 50-6-405 and 50-6-412. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002. Amendment filed May 21, 2007; effective September 28, 2007.

0800-2-15-.02 INVESTIGATION OF NON-COMPLIANCE.

- (1) Investigators may conduct an investigation or inquire into instances where an employer:
 - (a) reasonably appears to be subject to the Workers’ Compensation Law; and
 - (b) has or may have failed to secure payment of compensation as required by the Workers’ Compensation Law
- (2) When the records of the Department reasonably indicate, or when the Department’s investigation of an Employer reasonably indicates, that an employer is subject to the Workers’ Compensation Law and has failed to secure payment of compensation as required by the Workers’ Compensation Law, the Department shall notify the employer by certified letter, return receipt requested.
- (3) The certified letter shall:
 - (a) advise the employer of the monetary penalties which may be assessed against the employer if it is determined by the Commissioner or Commissioner’s designee that the employer has failed to secure payment of compensation as required by the Workers’ Compensation Law; and
 - (b) advise the employer of the criminal penalties to which the employer may be subject for failure to secure payment of compensation as required by the Workers’ Compensation Law.
- (4) The employer shall have ten (10) days, excluding Saturdays, Sundays and holidays, from the receipt of the certified letter to respond to and to provide to the Department:
 - (a) documented proof that the employer has secured, prior to the receipt of the certified letter, payment of compensation as required by the Workers’ Compensation Law; or

(Rule 0800-2-15-.02, continued)

- (b) a verifiable sworn affidavit, with supporting documentation, that the employer is exempt from the Workers' Compensation Law.
- (5) Investigators may conduct an investigation to verify the accuracy of the statements made or the facts set forth:
 - (a) in an affidavit provided by an employer;
 - (b) in documentation supporting an affidavit provided by an employer; or
 - (c) in any other method of proof provided by an employer.

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.

0800-2-15-.03 DEPARTMENTAL ACTIONS.

- (1) The Commissioner or Commissioner's designee shall:
 - (a) issue no monetary penalty if the Commissioner or Commissioner's designee determines either:
 - 1. that the employer had at all relevant times secured payment of compensation as required by the Workers' Compensation Law before receiving the certified letter; or
 - 2. that the employer is exempt from the Workers' Compensation Law and has been exempt from the Workers' Compensation Law at all relevant times;
 - (b) issue a monetary penalty to the employer equal to one and one-half times the average yearly workers' compensation premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), if the Commissioner or Commissioner's designee determines:
 - 1. that the employer is subject to the Workers' Compensation Law;
 - 2. that the employer has failed for any relevant period of time to secure payment of compensation as required by the Workers' Compensation Law; and
 - 3. that the employer has secured payment of compensation since the date of receipt of the certified letter described in Rule 0800-2-15-.02; or
 - (c) issue a "Show Cause Order and Notice of Hearing" if either:
 - 1. the employer does not timely respond to the certified letter; or
 - 2. investigators or employees of the Department cannot verify the accuracy of the statements made or the facts set forth in the sworn affidavit provided by the employer, in documentation supporting an affidavit provided by an employer, or in any other method of proof provided by an employer.
- (2) If the Commissioner or Commissioner's designee issues a "Show Cause Order and Notice of Hearing", the Commissioner or Commissioner's designee shall:
 - (a) assess against the employer a first monetary penalty equal to one and one half times the employer's average yearly workers' compensation premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3); and

(Rule 0800-2-15-.03, continued)

- (b) assess against the employer a second monetary penalty equal to the employer's average yearly workers' compensation premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3).

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.

0800-2-15-.04 MONETARY PENALTIES.

- (1) All monetary penalties assessed against an employer by the Commissioner or Commissioner's designee which are based on the average yearly workers' compensation premium shall be calculated by utilizing the appropriate assigned risk plan advisory prospective loss cost and multiplier for an employer in the business in which the employer is employed as of the date as determined by the Commissioner or Commissioner's designee when the employer is or has been subject to the Workers' Compensation Law and has failed to secure payment of compensation for any period of time required by the Workers' Compensation Law.
- (2) If the Commissioner or Commissioner's designee determines the period of noncompliance with the Workers' Compensation Law is less than one (1) year, any assessed monetary penalty shall be prorated.
- (3) Any prorated monetary penalty assessed against an employer by the Commissioner or Commissioner's designee shall not be less than an amount equal to one (1) month's premium of the average yearly workers' compensation premium for such an employer based on the appropriate assigned risk plan advisory prospective loss cost and multiplier.
- (4) If any monetary penalty assessed against an employer is held in abeyance, the period of abeyance shall be two (2) years.
 - (a) Any abated penalty becomes void upon the expiration of the two (2) year period, provided the employer remained subject to the Workers' Compensation Law during the two (2) year period and continuously secured payment of compensation as required by law.
 - (b) Any abated penalty becomes voidable, if within the two (2) year period, the employer provides notice to the Commissioner that the employer is no longer subject to the Workers' Compensation Law. Upon concurrence of the Commissioner or the Commissioner's designee that the employer is no longer subject to the Workers' Compensation Law, the abated penalty shall become void.
 - (c) Any abated penalty shall become due and payable immediately if, within the two (2) year period, the employer:
 - 1. continues to be subject to the Workers' Compensation Law; and
 - 2. fails to secure payment of compensation for any period of time as required by the Workers' Compensation Law.

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.

0800-2-15-.05 NOTICE OF HEARING.

- (1) The "Show Cause Order and Notice of Hearing" shall specify:
 - (a) the time, place, and nature of the hearing;

(Rule 0800-2-15-.05, continued)

- (b) the right of the parties to be represented by counsel;
 - (c) the legal authority and jurisdiction under which the hearing is to be held;
 - (d) all monetary penalties which have been assessed against the employer;
 - (e) the criminal penalties to which the employer may be subject; and
 - (f) a short and plain statement of the matters asserted
- (2) The “Show Cause Order and Notice of Hearing” shall be sent to the employer by certified mail, return receipt requested, to the employer’s last known address, according to department records.
 - (3) The Department shall schedule the show cause hearing in a timely manner, not to exceed sixty (60) days from the date of the employer’s receipt of the first certified letter pursuant to Rule 0800-2-15-.02(2).

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.

0800-2-15-.06 DISCOVERY.

- (1) Prior to the scheduled date and time of the show cause hearing before the Commissioner or the Commissioner’s designee, interested parties of record to such hearing, or their attorneys, may make written application for, and shall then be supplied with, information from the records of the Department of Labor and Workforce Development which is not privileged and which is directly related to the issues therein contested at such hearing, subject to the provisions of the Workers’ Compensation Law and the laws of the State of Tennessee.

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.

0800-2-15-.07 ISSUANCE OF SUBPOENAS.

- (1) The Commissioner or Commissioner’s designee may, where necessary, issue subpoenas to compel the production of books, records, papers, documents or other tangible things which may be relevant to or reasonably calculated to lead to the discovery of relevant information necessary to determine:
 - (a) whether an employer is subject to the Workers’ Compensation Law;
 - (b) whether an employer has secured payment of compensation pursuant to the Workers’ Compensation Law; or
 - (c) the amount of any monetary penalty which is required to be assessed against an employer for failure to secure payment of compensation pursuant to the Workers’ Compensation Law.
- (2) Such subpoenas may be served in person or by certified mail, return receipt requested, or in any manner prescribed by law for the service of subpoenas in a civil action.
- (3) In case of non-compliance with any subpoena issued and served under this section, the Commissioner or Commissioner’s designee may apply to the Chancery Court of Davidson County, Tennessee, for an order to compel compliance with the subpoena and to request any appropriate sanctions deemed reasonable by the Court.

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.

0800-2-15-.08 CONTINUANCES.

- (1) Continuances of show cause hearings shall be strongly discouraged by the Commissioner or Commissioner's designee.
- (2) All requests for continuances shall be made in writing as soon as reasonably and practicably possible prior to the scheduled date of the show cause hearing. Such requests may be granted at the discretion of the Commissioner or Commissioner's designee. In addition, the Commissioner or Commissioner's designee may grant a continuance during the course of a hearing in order to secure all of the evidence which the Commissioner or Commissioner's designee deems necessary for a fair hearing to all parties of interest or at any time for other good cause shown.

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.

0800-2-15-.09 EFFECT OF EMPLOYER'S FAILURE TO APPEAR AT HEARING.

- (1) Failure of an employer to appear at a scheduled show cause hearing before the Commissioner or Commissioner's designee after due notice thereof may result in a decision being automatically rendered against such employer.
- (2) If a party fails or refuses to appear at the time a hearing is scheduled after due notice thereof, or within fifteen (15) minutes thereafter, the Commissioner or Commissioner's designee shall proceed with the show cause hearing.
- (3) In such cases as described in subparagraph (2), the Commissioner or Commissioner's designee shall render a decision on the basis of whatever evidence is properly before the Commissioner or Commissioner's designee.

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.

0800-2-15-.10 REPRESENTATION AT SHOW CAUSE HEARING.

- (1) Representation at a show cause hearing shall be in accordance with the following:
 - (a) Any individual receiving due notice to appear at a show cause hearing may appear at the hearing in his or her own behalf or may be represented at the hearing by an attorney at law duly licensed and admitted to practice by the highest court of the State of Tennessee.
 - (b) Any general partnership receiving due notice to appear at a show cause hearing may appear at the hearing by any of its partners with written authority from all other partners or may be represented at the hearing by an attorney at law duly licensed and admitted to practice by the highest court of the State of Tennessee.
 - (c) Any corporation, limited partnership, limited liability company, or any other business entity not specifically referenced in this rule 0800-2-15-.10 which receives due notice to appear at a show cause hearing shall appear at the hearing by an attorney at law duly licensed and admitted to practice by the highest court of the State of Tennessee.
- (2) The Commissioner or Commissioner's designee, in his/her discretion, may refuse to allow any attorney or any other person to continue in the representation or assistance of another in any proceeding before the Commissioner or Commissioner's designee if the Commissioner or Commissioner's designee finds said attorney or other person guilty of disorderly, disruptive, or unethical conduct during the course of a show cause hearing.

(Rule 0800-2-15-.10, continued)

- (a) Any attorney seeking to appear for or to represent a party to any proceeding before the Commissioner or Commissioner's designee or any other person seeking to assist in the appearance of a party to such a proceeding shall cause to be filed, not later than the date of the hearing, a written notice of appearance. Such written notice of appearance should specify sufficient information necessary to identify the particular proceeding involved and which must include, at least:
 1. the name and address of the employer; and
 2. the name and address of the attorney or other person filing the notice of appearance.
- (3) All notices of appearance shall be delivered to the Commissioner or Commissioner's designee or mailed to:

Tennessee Department of Labor and Workforce Development
Division of Workers' Compensation
Uninsured Employers Fund
Andrew Johnson Tower, Second Floor
710 James Robertson Parkway
Nashville, TN 37243-0661
- (4) Any notice of appearance received by the Commissioner or Commissioner's designee shall be deemed as having been filed for the purpose of any further proceeding in the same matter before the Commissioner or Commissioner's designee.
 - (a) After the expiration of three (3) days from the date of receipt of a notice of appearance, any notice of hearing or decision subsequently mailed to a party by the Commissioner or Commissioner's designee shall also be mailed to the attorney or other person who has on file a properly executed notice of appearance.
- (5) Any requests for copies of other documents in any pending matter before the Commissioner or Commissioner's designee shall be subject to a reasonable copy fee.

Authority: T.C.A. §§50-6-118, 50-6-233, 50-6-412, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002. Amendment filed September 13, 2002; effective January 28, 2003.

0800-2-15-.11 PRE-HEARING MATTERS.

- (1) The names and addresses of all witnesses who may be called at a show cause hearing and a list of all proposed exhibits shall be both filed with the Commissioner or Commissioner's designee and served on opposing counsel at least seven (7) days, excluding Saturdays, Sundays, and holidays, prior to the date of the show cause hearing.
- (2) Copies of affidavits which may be used at a show cause hearing shall be furnished to opposing party or its counsel at least ten (10) days, excluding Saturdays, Sundays, and holidays, prior to the date of the show cause hearing.
- (3) Copies of all exhibits which are proposed to be offered shall be made available for viewing by opposing party or its counsel upon request made no less than five (5) days, excluding Saturdays, Sundays, and holidays, prior to the date of the show cause hearing.
- (4) Either the employer/employer's attorney or the fund/fund's attorney may request a pre-hearing conference by telephone or in person with the Commissioner or Commissioner's designee. A request for a pre-hearing conference shall be made at least fifteen (15) days, excluding Saturdays, Sundays, and holidays, prior to the date of the show cause hearing. The Commissioner or Commissioner's designee may, in his/her discretion, grant or decline to grant a request for a pre-hearing conference,

(Rule 0800-2-15-.11, continued)

limit or expand the matters to be discussed at a pre-hearing conference, or otherwise discuss how to facilitate the orderly process of the show cause hearing. The party requesting the conference shall be responsible for arranging the conference and coordinating the conference with opposing party or its counsel. All discussions with the Commissioner or Commissioner's designee at the pre-hearing conference shall include both the employer/employer's attorney and the fund/fund's attorney. The Commissioner or Commissioner's designee may, on his/her own initiative, schedule a pre-hearing conference by telephone or in person with the employer/employer's attorney and the fund/fund's attorney.

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.

0800-2-15-.12 ORDER OF PROCEEDINGS OF SHOW CAUSE HEARINGS.

- (1) In show cause hearings before the Commissioner or Commissioner's designee, the order of proceedings is as follows:
 - (a) The Commissioner or Commissioner's designee may confer with the parties prior to a show cause hearing to explain the order of proceedings, admissibility of evidence, number and order of witnesses and other preliminary matters.
 - (b) The Commissioner or Commissioner's designee calls the show cause hearing to order and turns on the mechanical recording device. Instead of using a mechanical recording device, the parties may employ the services of a court reporter to transcribe the proceedings.
- (2) The Commissioner or Commissioner's designee introduces self and gives a very brief statement of the nature of the proceedings. This statement includes a statement that the hearing will be fair and impartial and that the Commissioner or Commissioner's designee will be the sole determiner of the facts.
- (3) The Commissioner or Commissioner's designee then calls, respectively, on the staff attorney representing the fund and on the employer or the employer's attorney. If the employer is represented by counsel, the counsel is introduced and the counsel's presence noted for the record. Witnesses for the fund and for the employer are introduced and their presence noted at this time.
- (4) The Commissioner or Commissioner's designee identifies the issues as set out in the notice of hearing and gives references to the sections of the Workers' Compensation Law involved.
- (5) If either the staff attorney representing the fund or the employer notes exceptions to the issues as outlined by the Commissioner or Commissioner's designee, appropriate time is allowed for discussion, and necessary changes may be made to the satisfaction of the parties.
- (6) The Commissioner or Commissioner's designee swears all parties and witnesses that are to be called upon to testify at the hearing; however, a solemn affirmation may be accepted in lieu of oath.
- (7) Upon request by either the fund or the employer, all witnesses who are not to testify immediately are excluded from the hearing room so that no witness may hear the other testimony. Sequestration shall be effective before opening statements if requested. No person shall disclose by any means to excluded witnesses any live hearing testimony or exhibits created in the hearing room by a witness. This rule does not authorize exclusion of the following:
 - (a) a party who is a natural person;
 - (b) an officer or employee of a party which is not a natural person designated as its representative by its attorney; or

(Rule 0800-2-15-.12, continued)

- (c) a person whose presence is shown by a party to be essential to the presentation of the party's cause.
- (8) Any preliminary motions or stipulations are entertained. By agreement, the parties to the show cause hearing may stipulate the facts involved in writing. The Commissioner or Commissioner's designee may then:
 - (a) limit the parties to oral argument;
 - (b) limit the parties to the filing of written argument within ten (10) days; or
 - (c) in the discretion of the Commissioner or Commissioner's designee, may proceed with the show cause hearing and take such further evidence as the Commissioner or Commissioner's designee deems necessary to fully enable the Commissioner or Commissioner's designee to determine the issues.
- (9) Opening statements are allowed by both the employer and the fund respectively.
- (10) Employer calls the employer's witnesses and the questioning proceeds as follows:
 - (a) Employer questions.
 - (b) Fund cross-examines.
 - (c) The Commissioner or Commissioner's designee questions.
- (11) The fund calls the fund's witnesses and the questioning proceeds as follows:
 - (a) Fund questions.
 - (b) Employer cross-examines.
 - (c) The Commissioner or Commissioner's designee questions.
- (12) The employer and the fund may call appropriate rebuttal and rejoinder witnesses after sufficient showing of the need therefor to the Commissioner or Commissioner's designee.
- (13) Closing arguments are allowed by both the employer and the fund respectively.
- (14) If at any time during the show cause hearing, a party fails or refuses to comply with any lawful order of the Commissioner or Commissioner's designee necessary to maintain the orderly conduct of such hearing, the Commissioner or Commissioner's designee may conclude the hearing. In such cases, the Commissioner or Commissioner's designee shall render a decision on the basis of whatever evidence is properly before the Commissioner or Commissioner's designee.
- (15) The Commissioner or Commissioner's designee advises all parties of the procedures used in reaching a decision. The Commissioner or Commissioner's designee further advises that copies of such decision shall be mailed to all interested parties.
- (16) Subparagraphs (1) through (15) of this rule are intended to be merely a general outline as to the conduct of a show cause hearing before the Commissioner or Commissioner's designee. A departure from the literal form or substance of this outline, in order to expedite or insure the fairness of proceedings, would not be in violation of this rule.

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.

(Rule 0800-2-15-.12, continued)

0800-2-15-.13 SCOPE OF EXAMINATION AND RULES OF EVIDENCE.

- (1) In any show cause hearing before the Commissioner or Commissioner's designee, witnesses may be examined regarding any matter, not privileged, which is relevant and material to the issues to be determined at such hearing. The rules of evidence applicable at such hearing shall be as provided for in T.C.A. Section 4-5-313.
- (2) The Commissioner or Commissioner's designee may rule on and decide any question concerning the admissibility of evidence or procedural questions of law.
 - (a) It shall not be ground for objection that testimony will be inadmissible at the show cause hearing if, in the discretion of the Commissioner or Commissioner's designee, the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence.
- (3) If an objection to proffered evidence is sustained by the Commissioner or Commissioner's designee, the examining party or attorney may make a specific offer of what the examining party or attorney expects to prove by that evidence.

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.

0800-2-15-.14 BURDEN OF PROOF.

- (1) The burden of proof at a show cause hearing shall be on the employer to produce documentary evidence that the employer is not subject to the Workers' Compensation Law or that the employer was in compliance with the Workers' Compensation Law at all relevant times.

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.

0800-2-15-.15 DETERMINATIONS PURSUANT TO SHOW CAUSE HEARING.

- (1) If the Commissioner or Commissioner's designee determines pursuant to a show cause hearing that the employer is not subject to the Workers' Compensation Law and has not been subject to the Workers' Compensation Law at any relevant times, then the Commissioner or Commissioner's designee shall determine that all monetary penalties assessed against the employer shall be void.
- (2) If the Commissioner or Commissioner's designee determines pursuant to a show cause hearing that the employer had secured payment of compensation at all relevant times prior to the date of receipt of the first certified letter and has continued to secure payment of compensation at all relevant times as required by the Workers' Compensation Law, then the Commissioner or Commissioner's designee shall determine that all monetary penalties assessed against the employer shall be void.
- (3) If the Commissioner or Commissioner's designee determines pursuant to a show cause hearing that the employer had secured payment of compensation as required by the Workers' Compensation Law after the date of receipt of the first certified letter but before the date of the show cause hearing, then the Commissioner or Commissioner's designee shall order:
 - (a) that the first monetary penalty assessed against the employer equal to one and one-half times the employer's average yearly workers' compensation insurance premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), shall be due; and
 - (b) that the second monetary penalty assessed against the employer equal to the employer's average yearly workers' compensation insurance premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), shall be held in abeyance.

(Rule 0800-2-15-.15, continued)

- (4) If the Commissioner or Commissioner's designee determines pursuant to a show cause hearing that the employer has secured payment of compensation as required by the Workers' Compensation Law but failed at any relevant time to secure payment of compensation as required by the Workers' Compensation Law, then the Commissioner or Commissioner's designee shall order:
 - (a) that the first monetary penalty assessed against the employer equal to one and one-half times the employer's average yearly workers' compensation insurance premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), shall be due; and
 - (b) that the second monetary penalty assessed against the employer equal to the employer's average yearly workers' compensation insurance premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), shall be held in abeyance.
- (5) If the Commissioner or Commissioner's designee determines pursuant to a show cause hearing that the employer continues to fail to secure payment of compensation as required by the Workers' Compensation Law, then:
 - (a) the Commissioner or Commissioner's designee shall issue an order against the employer ordering the employer:
 - 1. to procure workers' compensation insurance coverage; and
 - 2. to provide to the Department proof of coverage, with supporting documentation, within five (5) days, excluding Saturdays, Sundays, and holidays, from the date of issuance of the order.
 - (b) If the employer obtains workers' compensation insurance coverage and provides the Department with proof of coverage as ordered by the Commissioner or Commissioner's designee, then:
 - 1. the first monetary penalty assessed against the employer equal to one and one-half times the employer's average yearly workers' compensation premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), shall be due; and
 - 2. the second monetary penalty assessed against the employer equal to the employer's average yearly workers' compensation premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), shall be held in abeyance.
 - (c) If the employer fails to obtain workers' compensation insurance coverage as ordered by the Commissioner or Commissioner's designee within the required time period, then all monetary penalties, totaling two and one-half times the average yearly workers' compensation premium, or a prorated amount subject to the provisions of Rule 0800-2-15-.04(2) and (3), shall be immediately due and payable.

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.

0800-2-15-.16 COLLECTION OF PENALTIES.

- (1) To collect from employers any unpaid monetary penalties which are due and have been ordered by the Commissioner or Commissioner's designee pursuant to a final order, the Commissioner or Commissioner's designee may seek monetary judgments in the Chancery Court of Davidson County, Tennessee.

(Rule 0800-2-15-.16, continued)

- (2) To collect from employers any unpaid monetary penalties which are due and have been ordered pursuant to a final monetary judgment of the Chancery Court of Davidson County, Tennessee, the Commissioner or Commissioner's designee may:
 - (a) refer cases to the Attorney General; or
 - (b) utilize the services of a collection agency.

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.

0800-2-15-.17 INJUNCTIONS.

- (1) The Commissioner or Commissioner's designee may seek an injunction in the Chancery Court of Davidson County, Tennessee to prohibit an employer from operating its business in any way until the employer has complied with an order by the Commissioner or Commissioner's designee to obtain workers' compensation insurance coverage.
- (2) In the event an employer shall fail to comply with the requirements of the Workers' Compensation Law by failing to secure payment of compensation on a second or subsequent occasion, the Commissioner or Commissioner's designee may seek an injunction in the Chancery Court of Davidson County, Tennessee to prohibit the employer from operating its business in any way until the employer provides proof, with accompanying documentation, that it has complied with the Workers' Compensation Law by securing payment of compensation.

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.

0800-2-15-.18 APPEAL.

- (1) The employer shall have the right to appeal, pursuant to the Tennessee Administrative Procedures Act, any decision made by or order issued by the Commissioner or Commissioner's designee.

Authority: T.C.A. §§50-6-412, 50-6-118, 50-6-233, and 50-6-801. **Administrative History:** Original rule filed March 11, 2002; effective July 29, 2002.